

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1271

In The
United States Court of Appeals
For The Second Circuit

UNITED STATES OF AMERICA,

Appellee,

vs.

ISMAEL ANTONIO RAMOS,

Defendant-Appellant.

*On Appeal from the United States District Court for the Eastern
District of New York.*

APPENDIX FOR APPELLANT

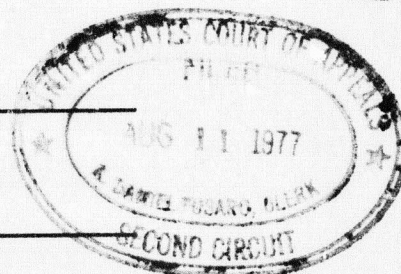
PERROTTA & HARRIS

Attorneys for Defendant-Appellant

80 Broad Street

New York, New York 10004

(212) 425-0055



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DOCKET ENTRIES
(pp. 1A-2A) 2-A

APPEAL

U.S. District Court

U.S. vs. 77 CR 141

77 CR 141

Case Filed
Mo 3 Day 16

PLATT, J.

SOVEREIGN M.S.
FELONY Fel

207 1
District Office

Disp./Sentence

ISMAEL ANTONIO RAMOS
(LAST FIRST, MIDDLE)

JUVENILE

No. of Del's

77 141 1
Yr Docket No Del

U.S. TITLE/SECTION
21:841(a)(1)

OFFENSES CHARGED

ORIGINAL COUNTS

Did possess with intent to distribute 1
heroin

U.S. MAG
CASE NO. 77 M 85

BAIL - RELEASE

Denied ☐ AMT ☐ Fugitive
Set ☐ Pers. Recog.

\$ 75,000

Date
1/21/77

☐ Bail Not Made ☐ Collateral
☐ Status Changed (See Docket) ☐ Pny Cust. Other

II. KEY DATES & INTERVALS

ARREST or	INDICTMENT	ARRAIGNMENT	TRIAL
U.S. Custody Began	High Risk Date	Information ☒ 3-16-77	Trial Set For
Summons Served	Indict. Waived ☐	1st Plea 3.18.77	Voir Dire ☐
First Appearance 1/21/77	In Charging District	Superseding ☐ Indict/Info ☐	Trial Began ☐
		Final Plea	Trial Ended
		NG ☐ G ☒ NOL	

SENTENCE
Disposition of Charges

☐ Convicted ☐ On All Charges
☐ Acquitted ☐ On Lesser Offense(s)
☐ Dismissed ☐ WOP: ☐ WP
☐ On Governing Motion

MAGISTRATE		OUTCOME
Search Warrant	DATE	DISMISSED
Issued	INITIAL NO.	Held for GJ or Other Proceeding in this District
Return	INITIAL APPEARANCE DATE	Held for GJ or Other Proceeding in District Below
Summons	PRELIMINARY EXAMINATION OR REMOVAL HEARING	
Issued	Date Scheduled 1/31/77	
Served	Date Held	
Arrest Warrant Issued	X WAIVED ☐ NOT WAIVED	
COMPLAINT	INTERVENING INDICTMENT	
OFFENSE (In Complaint)	1/21/77 ASC/07E	ASC 07E

did conspire to possess with intent to distribute app. 17 ounces
of heroin. T-21 USC Section 841(a)(1)

U.S. Attorney or Asst.

ATTORNEYS

Defense ☐ CJA ☐ Ret. ☐ Waived ☐ Self ☐ None ☐ Other

E. Weinbach

Chris Termini, Esq.

Allen Harris
C/O CARMINE J. PERROTTA
25th Fl., 80 Broad St.,
New York, N.Y. 10004
(212) 425-0055

DATE	DOCUMENT NO.	PROCEEDINGS	EXCLUDABLE DELAY
3-16-77		Information filed	
3.18.77		Before Platt, J.- Case Called. Deft. & Counsel present. After having been advised of his rights by the Court, and on his own behalf, Deft. waives Indictment and enters a plea of GUILTY to the Information. Waiver signed and witnessed. Deft's. motion for reduction of bail - denied. Sentence adjd. without date. Bail (\$75,000.00): continued.	
3.21.77		Waiver of Indictment filed.	
5-19-77		Before PLATT, J - case called - deft & atty Chris Termini of Legal Aid present - deft sentenced to imprisonment for a period of 10 years plus special parole term of 10 years pursuant to 18:4205(b)(2) and shall become eligible for parole at such time as the Parole Commission may determine.	
5-19-77		Judgment and commitment filed - certified copies to Marshal.	
5/26/77		Judgment & commitment ret & filed. Deft delivered to MCC.JLJ	
6.03.77		Notice of Appearance filed.	

2-A

THE APPLICABLE EXCLUDABLE DELAY IS SET FORTH IN SECTION V. ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
	(DOCUMENT NO.)	Interval Section (a)	Start Date End Date (b)	Lr Code (c)	Total Days (d)
6-3-77	Notice of appeal filed - docket entries and duplicate of notice mailed to the court of appeals.				

A TRUE COPY ATTEST
 LEWIS ORGEL CLERK
 BY *Rose J. [Signature]* DEPUTY CLERK

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

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3-A

TTP:EW:eh
F. #771,091

AFFIDAVIT OF SPECIAL AGENT GERARD WHITMORE OF THE DRUG
ENFORCEMENT ADMINISTRATION SWORN TO BEFORE UNITED STATES
MAGISTRATE CHREIN ON JANUARY 21, 1977 (pp. 3A-5A)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

Title 21, U.S.C.
Sections 841(a)(1)

- against -

ISMAEL RAMOS,

Defendant.

----- X

EASTERN DISTRICT OF NEW YORK, SS:

771 85

GERARD WHITMORE, being duly sworn deposes and
says that he is a Special Agent of the Drug Enforcement
Administration, duly appointed according to law and acting
as such.

On or about the 20th day of January 1977, within
the Eastern District of New York ISMAEL RAMOS did possess
with intent to distribute approximately seventeen ounces
(17) of heroin hydrochloride, a Schedule I controlled
substance, in violation of Title 21, United States Code,
Section 841(a)(1).

The source of your deponent's information and
the grounds for his belief are:

(1) Observation by your deponent on January 20,
1977 at LaGuardia Airport, Queens, New York, of the
defendant ISMAEL RAMOS disembarking from American
Airlines Flight 338 which had originated in Chicago,
Illinois.

(2) Observation by your deponent of the
defendant ISMAEL RAMOS proceeding through the airport to

an immediate exit and entering a taxicab without any luggage.

(3) Observation of the defendant ISMAEL RAMOS by a follow agent who informed your deponent that he observed at the airport a noticeable bulge in the back of the defendant.

(4) Surveillance by your deponent of the taxicab which the defendant ISMAEL RAMOS had entered and observation by your deponent of the defendant ISMAEL RAMOS exit the taxicab at the intersection of Montrose and Manhattan Avenues, Brooklyn.

(5) Observation by your deponent of the defendant ISMAEL RAMOS enter a multiple dwelling at 134 Manhattan Avenue in Brooklyn, New York.

(6) Your deponent followed the defendant ISMAEL RAMOS into the multiple dwelling at 134 Manhattan Avenue in Brooklyn and in the hallway identified himself to the defendant as a federal narcotics officer.

(7) Questioning of the defendant ISMAEL RAMOS in the hallway of the multiple dwelling at 134 Manhattan Avenue by your deponent in response to which the defendant denied that he had flown from Chicago and informed your deponent that he had the "wrong man."

(8) Observation by your deponent of the defendant ISMAEL RAMOS grabbing his pants and shaking and statement by the defendant that he had to go to the bathroom immediately.

(9) Questioning of the defendant ISMAEL RAMOS about the bulge in his back, previously observed (supra 3), to which defendant gave no response as a result of

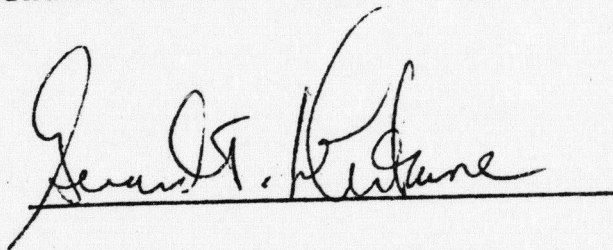
which your deponent's fellow agent placed his hand on the defendant's back by the bulge and felt a hard, lumpy package.

(10) Retrieval by your fellow agent, with the assistance of the defendant ISMAEL RAMOS, of one plastic bag covered with masking tape from the back of the defendant.

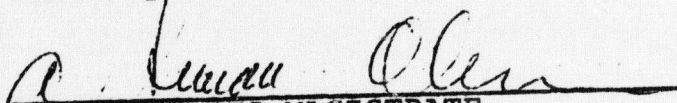
(11) Statement by the defendant ISMAEL RAMOS to your deponent in which he admitted that the contents of the aforementioned package was heroin.

(12) Field test conducted by your deponent on the substance retrieved from the aforementioned package which proved positive for heroin hydrochloride.

WHEREFORE, your deponent respectfully prays that the above-named defendant ISMAEL RAMOS be dealt with according to law.


Gerald R. Kertane

Sworn to before me this
21st day of January, 1977.


UNITED STATES MAGISTRATE
Eastern District of New York

U.S. Magistrate's Court # 1

6-A

Magistrate's Docket No.
Case No.

MAGISTRATE CHREIN'S ADVISING DEFENDANT RAMOS OF
RIGHTS ON JANUARY 21, 1977
UNITED STATES OF AMERICA

-VS-

Samuel Ramos

77-1185
77-1185

The complaint against the defendant was read and the charge was explained to him/her by the Magistrate *Chrein* who explained his/her rights to him/her and waived the public reading of the complaint. The defendant was advised that he was entitled to an adjournment for the purpose of engaging an attorney; that he would be given an opportunity to communicate with his/her friends and relatives; the defendant was further advised that he was under no obligation to make any statement and that any statement made by him/her could subsequently be used against him/her; that he was entitled to a hearing to determine as to whether or not there was probable cause that a crime was committed and that he committed the same and if he desired a hearing, he was entitled to the aid of counsel either of his/her own choosing, or if he could not afford counsel, such counsel as would be assigned to him/her pursuant to The Criminal Justice Act of 1964; that if after the hearing, it was determined that there existed probable cause that he committed the crime as stated in the complaint he would be held for the action of the Grand Jury.

Defendant ~~does~~, ~~does not~~ desire counsel
Defendant ~~does~~, ~~does not~~ desire assigned counsel
Defendant ~~does~~, does not waive preliminary examination

Dated:

1/21/77

Samuel Ramos
UNITED STATES MAGISTRATE

The charge in the complaint has been read and explained to me. I have been advised by the United States Magistrate of my right to counsel and my constitutional rights. I do not desire an attorney at this time.

Defendant

In the Presence Of:

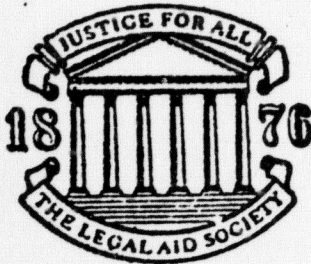
United States Magistrate
Eastern District of New York

[Signature]

WAIVER BY ASSIGNED COUNSEL (LEGAL AID) FOR DEFENDANT
RAMOS OF PRELIMINARY HEARING DATED JANUARY 31, 1977

7-A

Recd. 2/1/77



THE LEGAL AID SOCIETY

Criminal Defense Division

Federal Defender Services Unit
26 Court Street — Room 701
Brooklyn, N.Y. 11242
(212) 522-3494

MURRAY MOGEL, Chief of Operations
Southern and Eastern Districts
EDWARD J. KELLY, Attorney-in-Charge
Eastern District

HAROLD H. HEALY, JR.
Chairman of the Board

ROBERT B. MCKAY
President

ARCHIBALD R. MURRAY
Executive Director
& Attorney-in-Chief

WILLIAM J. GALLAGHER
Attorney-in-Charge
Criminal Defense Division

January 31, 1977

Honorable A. Simon Chrein
Magistrate, United States District Court
Federal Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Ismael Ramos

Dear Judge Chrein:

Please be advised that this office waives
the preliminary hearing now scheduled in this case.

Respectfully yours,

Chris Termini
CHRIS TERMINI
Associate Attorney

CT:tt
cc:

Elia Weinbach, Esq.,
Assistant United States Attorney

WAIVER BY DEFENDANT RAMOS OF INDICTMENT DATED
MARCH 17, 1977

8-A

Waiver of Indictment

Cr. Form No. 18

TRP:RCF:1j1
F. #771,091

United States District Court

FOR THE

EASTERN DISTRICT OF NEW YORK

FILED

IN CLERK'S OFFICE

U. S. DISTRICT COURT E.D. N.Y.

UNITED STATES OF AMERICA

v.

ISMAEL RAMOS,

Defendant.

★ MAR 21 1977 ★

No. 77 CR141 TIME A.M.
P.M.

ISMAEL RAMOS

the above named defendant, who is accused of

knowingly and intentionally possessing with intent to distribute approximately seventeen ounces (17) of heroin hydrochloride, a Schedule I narcotic drug controlled substance. (Title 21, United States Code, Section 841(a)(1)).

being advised of the nature of the charge and of his rights, hereby waives in open court prosecution by indictment and consents that the proceeding may be by information instead of by indictment.

Date March 17, 1977

Ismael A. Ramos
Defendant.
[Signature]
Witness.
Ch. [Signature]
Counsel for Defendant. 2

TRP:RCF:lj1
F. #771,091

9-A
INFORMATION FILED BY UNITED STATES ATTORNEY TRAGER,
UNDATED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

77 CT 141

----- X
UNITED STATES OF AMERICA

- against -

ISMAEL RAMOS,

Defendant.

U. S. DISTRICT COURT E.D. N.Y. INFORMATION

MAR 10 1977

Cr. No. 77 CR 141
(T. 21, U.S.C., §841(a)(1))

TIME A.M. _____
P.M. _____

----- X
THE UNITED STATES ATTORNEY CHARGES:

On or about the 20th day of January, 1977,
within the Eastern District of New York, the defendant
ISMAEL RAMOS did knowingly and intentionally possess
with intent to distribute approximately seventeen ounces
(17) of heroin hydrochloride, a Schedule I narcotic
drug controlled substance. (Title 21, United States
Code, Section 841(a)(1))

David G. Trager

DAVID G. TRAGER
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

10-A

PLEADING MINUTES (MARCH 18, 1977)
(pp.10A-26A)

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

:

-against-

:

77 CR 141

ISMAEL RAMOS,

:

Defendant.

:

-----X

United States Courthouse
Brooklyn, New York

March 18, 1977
10:00 o'clock A.M.

B E F O R E :

HONORABLE THOMAS C. PLATT, U.S.D.J.

PAUL GOLDWERT
ACTING OFFICIAL COURT REPORTER

10-A

1 A P P E A R A N C E S :

2

2
3 DAVID G. TRAGER, ESQ.
4 United States Attorney
5 for the Eastern District of New York

6 BY: RHONDA C. FIELDS, ESQ.,
7 Assistant United States Attorney

8 CHRIS TERMINI, ESQ.
9 Attorney for Defendant

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1 THE COURT: Is this the first time for this
2 case?

3 MR. TERMINI: This is his first time in this
4 part.

5 THE COURT: Mr. Ramos, this is like any other
6 arraignment. You do not have to say anything. You
7 may remain silent throughout these proceedings. You
8 need not answer any questions. Anything you say may
9 be used against you. If you start to say something,
10 you may stop at any time.

11 You are entitled to have counsel of your own
12 choice. If you cannot afford counsel, the Court will
13 appoint counsel for you at no cost to you.

14 Do you understand your rights?

15 MR. RAMOS: Yes.

16 THE COURT: Somebody, I assume the Magistrate,
17 has appointed the Legal Aid Society for you, and
18 Mr. Termini is here with you. He is your counsel,
19 is that right?

20 MR. RAMOS: Yes.

21 THE COURT: Do you wish to have the indictment
22 read, Mr. Termini?

23 MR. TERMINI: No, your Honor.

24 THE COURT: How does he plead?
25

13-A
1 MS. FIELDS: If I may, your Honor. There is a
2 waiver of the indictment.

3 THE COURT: I am sorry. This is a felony?

4 MS. FIELDS: Yes.

5 THE COURT: Mr. Ramos, before accepting a
6 waiver of indictment from you, a written waiver,
7 I have to ask you certain additional questions.

8 Is your full Ismael Ramos?

9 MR. RAMOS: Ismael Antonio Ramos.

10 THE COURT: How old are you?

11 MR. RAMOS: Twenty two. I will be twenth three
12 next April, this coming April.

13 THE COURT: What education and schooling have
14 you had?

15 MR. RAMOS: Until the 11th grade.

16 THE COURT: Where was it?

17 MR. RAMOS: In Seward Park High School in
18 Manhattan.

19 THE COURT: Are you currently or have you
20 recently been under the care of a physician or a
21 psychiatrist?

22 MR. RAMOS: No, your Honor.

23 THE COURT: Have you ever been hospitalized or
24 treated for a narcotics addiction?

25 When you shake your head, he is not able to get

1 anything down on the record.

2 THE WITNESS: No, your Honor.

3 THE COURT: Have you been furnished with a
4 copy of this information against you?

5 MR. RAMOS: Yes.

6 THE COURT: Have you read it?

7 MR. RAMOS: Yes.

8 THE COURT: Have you discussed it with your
9 attorney?

10 MR. RAMOS: Yes.

11 THE COURT: Do you understand that it charges
12 that on January 20, 1977, within this District,
13 you did knowingly and intentionally possess with
14 intent to distribute approximately 17 ounces of
15 heroin.

16 MR. RAMOS: Yes, sir, your Honor.

17 THE COURT: You understand that unless you
18 waive your right to indictment, you may not be
19 charged with a felony such as in this information
20 unless a Grand Jury returns an indictment that there
21 is probable cause to believe that a crime has been
22 committed and that you committed it? Do you understand
23 that?

24 MR. RAMOS: No, I don't think so.

25 THE COURT: Let's take it step-by-step. Unless

1
2 you waive indictment; you may not be charged with a
3 felony such as this without the case first going to
4 the Grand Jury. You understand that?

5 MR. RAMOS: What does he mean?

6 THE COURT: Do you understand that you have a
7 right to indictment by a grand jury?

8 MR. RAMOS: Yes.

9 THE COURT: But unless you waive that right
10 to indictment by a grand jury, you may not be
11 charged in the manner that they are currently
12 charging you?

13 MR. RAMOS: Yes.

14 THE COURT: Particularly, in a case which
15 involves a felony which this is, you understand that?

16 MR. RAMOS: Yes.

17 THE COURT: If the Grand Jury does not find
18 by return of an indictment that there is probably
19 cause to believe that a crime has been committed and
20 that you committed it, you won't be indicted. You
21 understand that?

22 MR. RAMOS: Yes.

23 THE COURT: So if you do not waive indictment,
24 as your counsel proposes, that you do, the Government
25 may present the case to the Grand Jury and request it

1 to indict you.

2 MR. RAMOS: I understand that.

3 THE COURT: You understand the Grand Jury
4 is composed of at least fourteen and not more than
5 twenty three persons?

6 MR. RAMOS: Yes.

7 THE COURT: And at least twelve grand jurors
8 must find there is probable cause to believe that
9 you committed the crime with which you are being
10 charged here before you may be indicted.

11 MR. RAMOS: Yes, I understand.

12 THE COURT: A grand jury might or might not
13 indict you for this or some other offense.

14 MR. RAMOS: Yes.

15 THE COURT: If you waive indictment by the
16 Grand Jury, the case will proceed against you on
17 the U.S. Attorney's information just as though you
18 had been indicted.

19 MR. RAMOS: Yes.

20 THE COURT: Have you discussed the matter of
21 waiving the right to indictment with your attorney?

22 MR. RAMOS: Yes.

23 THE COURT: Do you understand you have a right
24 to an indictment by the Grand Jury?

25 MR. RAMOS: Yes.

17-A

1 THE COURT: Have any threats or promises been
2 made to induce you to waive indictment?

3 MR. RAMOS: No.

4 THE COURT: Do you wish to waive your right
5 to indictment by Grand Jury?

6 MR. RAMOS: Yes.

7 THE COURT: Is there any reason why I should
8 not?

9 MR. TERMINI: No. I would point out in
10 addition that I had full conversation with Mr. Ramos
11 concerning this very point.

12 THE COURT: Mr. Ramos, do you so waive
13 indictment?

14 MR. RAMOSE: Yes, I waive it.

15 THE COURT: You may sign the waiver of
16 indictment here in open court, the form, and I will
17 enter the form showing that waiver was knowingly and
18 knowlegeably signed and is accepted.

19 How does he plead to the information, guilty
20 or not guilty?

21 MR. TERMINI: He pleads guilty to the
22
23 information.

24 THE COURT: Mr. Ramos, again I warn you, you
25 do not have to say anything or answer any of my

18-A

1 questions. Before accepting a plea of guilty, I
2 must ask you certain additional questions and I must
3 advise you, as additional Constitutional rights, you
4 have the right to understand the nature of the
5 charge against you and the consequences of your
6 plea. You understand that?

7 MR. RAMOS: Yes.

8 THE COURT: Do you understand that and have
9 you been advised that you have a Constitutional right
10 to a speedy and public trial by jury with the
11 assistance of counsel?

12 MR. RAMOS: Yes, I understand.

13 THE COURT: And that at any such trial, you
14 have the right to confront and cross examine any
15 witnesses who are called against you.

16 MR. RAMOS: Yes.

17 THE COURT: And you have the right to subpoena
18 or compulsory process, to bring witnesses in on your
19 own behalf to testify at any such trial.

20 MR. RAMOS: Yes.

21 THE COURT: And at any such trial, you have the
22 right not to incriminate yourself. You cannot be
23 compelled to testify at the trial.

24 MR. RAMOS: Right.

25 THE COURT: You have the right to plead not

1 guilty to this information. You understand that?

2 MR. RAMOS: Yes, I understand.

3 THE COURT: If you do so plead not guilty,
4 the Government would be required to prove your guilt
5 beyond a reasonable doubt at a trial before a jury.

6 MR. RAMOS: Yes.

7 THE COURT: In the event the Government fails
8 to do so, the jury would have the obligation of
9 finding you not guilty.

10 MR. RAMOS: Yes.

11 THE COURT: You understand the Court may ask
12 you questions about the offense to which you have
13 offered to plea?

14 MR. RAMOS: Yes, your Honor.

15 THE COURT: If I put you under oath and ask
16 you those questions and you gave me false answers,
17 the answers may be used against you in the prosecu-
18 tion for perjury.

19 MR. RAMOS: Yes.

20 THE COURT: If I do not put you under oath
21 and you give me false answers, the answers
22 used against you in a prosecution for making a
23 falst statement. You understand that?

24 MR. RAMOS: Yes.

25 THE COURT: If your plea is accepted, there

1 will be no trial. Do you understand that?

2 MR. RAMOS: Yes.

3 THE COURT: You will be waiving your right
4 to a trial and all the foregoing Constitutional
5 rights.

6 MR. RAMOS: Yes.

7 THE COURT: I have read the information to
8 you. You told me you understood, is that correct?

9 MR. RAMOS: Yes.

10 THE COURT: My question is did you knowingly
11 and intentionally possess this heroin with intent
12 to distribute it?

13 MR. RAMOS: Yes, your Honor.

14 THE COURT: You did it willingly and knowingly?

15 MR. RAMOS: Yes. I knew it.

16 THE COURT: And voluntarily and nobody forced
17 you to do it?

18 MR. RAMOS: No.

19 THE COURT: What role did you play in this
20 distribution plan of the heroin?

21 MR. RAMOS: I still do not understand.

22 THE COURT: What role did you play in this
23 offense?

24 MR. RAMOS: When?

25 MR. TERMINI: What did you do?

1 THE COURT: On January 20, 1977 when you had
2 the heroin in your possession, who gave it to you?

3 MR. RAMOS: I bought it.

4 THE COURT: Who were you planning to sell it
5 to?

6 MR. RAMOS: I don't know.

7 THE COURT: Were you planning to sell it?

8 MR. RAMOS: Yes, I guess so.

9 THE COURT: Do you guess so or were you?

10 MR. RAMOS: I guess so, if I could find
11 somebody who I could sell it to.

12 THE COURT: In other words, you were dealing
13 in it?

14 MR. RAMOS: Not until that day.

15 THE COURT: That was the only occasion?

16 MR. RAMOS: Yes, that I was planning to sell
17 it myself.

18 THE COURT: Did you buy it from an agent,
19 an undercover agent?

20 MR. RAMOS: No.

21 THE COURT: From somebody else?

22 MR. RAMOS: Yes.

23 THE COURT: Have you ever dealt with that
24 somebody else?

25 MR. RAMOS: No, Your Honor.

1 THE COURT: He just persuaded you on that
2 date?

3 MR. RAMOS: Yes.

4 THE COURT: Have any promises of any kind
5 including any promises or suggestions as to what
6 sentence may be imposed been made to you by your
7 lawyer, by this Court or anyone else to induce a
8 plea of guilty?

9 MR. RAMOS: No.

10 THE COURT: Have you been threatened or
11 coerced into a plea of guilty?

12 MR. RAMOS: No.

13 THE COURT: Do you know what the maximum
14 sentence which may be imposed for this offense is?

15 MR. RAMOS: Yes.

16 THE COURT: How much?

17 MR. RAMOS: Fifteen years.

18 THE COURT: Plus fine.

19 MR. RAMOS: \$75,000.00 sir.

20 MS. FIELD: \$25,000.00 , your Honor.

21 THE COURT: I believe it is fifteen years plus
22 \$25,000 fine. Let's check it to make sure.

23 Yes, fifteen years, plus \$25,000.00 fine just
24 as a first offense. If it is a second offense, it
25 is thirty years and a \$50,000.00 fine. You understand

1 that?

2 MR. RAMOS: Yes, your Honor.

3 THE COURT: In addition, there is a special
4 parole term which is a minimum, I believe, in this
5 case of three years. Do you understand that?

6 MR. RAMOS: Yes, your Honor.

7 THE COURT: Do you understand what a special
8 parole term is?

9 MR. RAMOS: No.

10 THE COURT: Let me try and explain it to you.
11 The special parole term in effect increases the
12 sentence imposed so that I may impose a sentence up
13 to fifteen years and on top of that, I may impose
14 a special parole term for the balance of your life.
15 If after release, you violate a parole term, you
16 may be returned to the prison for the balance of the
17 prison term and the term imposed under this special
18 parole term. So that you are pleading to a potential
19 life sentence if you are subsequently released from
20 your initial sentence and thereafter violate the
21 special parole term. You understand that?

22 MR. RAMOS: Yes.

23 THE COURT: Has your lawyer made any
24 prediction or expressed any opinion as to what
25 sentence will be imposed?

1 MR. RAMOS: No.

2 THE COURT: Have you discussed your plea
3 of guilty with your lawyer?

4 MR. RAMOS: Yes.

5 THE COURT: Do you understand you will have his
6 assistance at the time sentence is imposed?

7 MR. RAMOS: Yes.

8 THE COURT: You say you will be twenty three
9 on what date in April?

10 MR. RAMOS: The 3rd.

11 THE COURT: It is a couple of weeks.

12 MR. RAMOS: Yes.

13 THE COURT: That is the dividing line. It
14 is twenty two to twenty five. Up until twenty one
15 and then I have to give reasons.

16 You may be entitled to treatment under the
17 Youth Correction Act. You should discuss this with
18 the pre-sentence Probation Officer who will talk to
19 you after this plea. It is something you may or may
20 not be entitled to. Since you are twenty three years
21 of age, I believe it is entirely in my discretion
22 and I do not have to give reasons for not giving
23 you that treatment.

24 However, if you wish it, you should make that
25 fact known to the Probation authority and if you are

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1 What is the bail?

2 MR. TERMINI: Currently it is \$75,000.00. I
3 have been requested by the Defendant and I have been
4 in contact with Pre-Trial people and I have been
5 asked to ask if your Honor would consider reduction
6 in the trial situation at this time. Mr. Ramos has
7 had several discussions with the United States
8 Attorney's Office concerning this case and other
9 matters which he has knowledge of. I do not know
10 what their position is today but I would ask your
11 Honor to read the Pre-Trial report that has been
12 submitted and I believe Mr. Ramos obviously is in
13 difficulty with the authorities over his drug
14 participation but has not been considered a main
15 cog in an operation; more of a delivery type of
16 situation at best.

17 THE COURT: What do you say, Ms. Fields?

18 MS. FIELDS: The Government would oppose
19 reduction of bail at this time.

20 THE COURT: After looking at the Pre-Trial
21 Sentence Report, I think I will adhere to the bail.

22 MR. TERMINI: Is the sentence adjourned without
23 date?

24 THE COURT: Yes. He will be notified when the
25 sentence is. It will be about six weeks hence.

* * * * *

27-A

SENTENCING MINUTES (MAY 19, 1977)

(pp. 27A-38A)

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

ISMAEL ANTONIO RAMOS,

Defendant. :

77-CR-141

United States Courthouse
Brooklyn, New York

May 19, 1977

10:00 o'clock A.M.

Before:

HONORABLE THOMAS C. PLATT, U.S.D.J.

PAUL KLIMASZEWSKI
ACTING OFFICIAL COURT REPORTER

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: RHONDA FIELDS, ESQ.
Assistant U.S. Attorney

MILLERS FALLS

CHRIS TERMINI, ESQ.

Attorney for Defendant

COTTON CONTENT

1 THE COURT: Good morning, Mr. Termini and
2 good morning Ms. Fields.

3 MR. TERMINI: Good morning, your Honor.

4 MS. FIELDS: Good morning, your Honor.

5 THE COURT: Is there any reason why we
6 shouldn't proceed with sentencing?

7 MR. TERMINI: No, your Honor.

8 THE COURT: Mr. Ramos, any reason why we
9 shouldn't proceed with sentencing?

10 MR. RAMOS: No, Your Honor.

11 THE COURT: Do you wish to say something,
12 Mr. Termini?

13 MR. TERMINI: Yes, your Honor. I trust that
14 your Honor received the letters that I sent to your
15 chambers earlier this week from Mr. Ramos' family?

16 THE COURT: Yes. I think, however, I sent
17 them down to the Probation Department. I don't have
18 them here now. I did read them.

19 MR. TERMINI: That's the main thing, your
20 Honor, I was hoping that your Honor did receive them.

21 Mr. Ramos and I have examined the probation
22 report and I would trust that your Honor would show
23 some leniency towards Mr. Ramos, as far as sentencing
24 goes. He had one previous involvement with the law
25 and that was a traffic offense and he received a

1 conditional discharge for that.

2 I have had contact with Mr. Ramos' family
3 and they are a close knit unit and, apparently,
4 Mr. Ramos does take whatever steps he can to provide
5 some support for them, and they do look upon him for
6 aid and support and he does take care of his mother,
7 and they are involved with the church somewhat.

8 Mr. Ramos, I believe, your Honor, is somewhat
9 of a middleman at best in this. I offer no excuse
10 for his conduct, but I do not believe that he was a
11 supplier as such of this stuff. He tried to help his
12 family and made a foolish mistake, and he realizes it
13 as such.

14 I realize there is a statement in the Probation
15 report with respect to his refusing to testify at this
16 case. I have represented Mr. Ramos throughout the
17 proceeding and he has been through the United States
18 Attorney's Office several times, even before Ms. Fields
19 was on the case. He did supply information to them
20 leading to an arrest. He did tell them all that he
21 knew at the time of his arrest, and this was done at
22 any time without them ever indicating to him that they
23 would ever consent to possibly even lower bail, not
24 even discussing the merits of what he would have to do
25 in Court, but at no time did they even tell him that

1 they were considering lowering the bail to a lesser
2 figure than it was.

3 Mr. Ramos waived Grand Jury indictment. He
4 pled. He admitted his guilt and he said he is guilty,
5 your Honor. He made a foolish mistake.

6 As far as testifying, he has expressed to me
7 a tremendous fear against his family and it's a fear
8 that he cannot personally just step forward and
9 overcome. He is frightened of the consequences upon
10 his family. I, personally, don't know how much his
11 testimony would be needed at a trial; they got a
12 Grand Jury indictment without him and they never
13 asked him for testimony in the Grand Jury.

14 Mr. DePetrìs was involved in this case at an
15 earlier time. I assume they had enough evidence to
16 proceed in the Grand Jury without him; they didn't
17 even ask him for that kind of testimony, it was only
18 in the last two weeks --

19 THE COURT: There's a co-defendant involved
20 here who is going to go to trial.

21 MR. TERMINI: Yes, your Honor, exactly.

22 THE COURT: Now, surely, his testimony would
23 be helpful in that.

24 MR. TERMINI: Excuse me, your Honor?

25 THE COURT: Surely, based on what's set forth

1 in this Probation report, his testimony would be
2 helpful in that case, would it not?

3 MR. TERMINI: I would say it would probably
4 be helpful, but I don't know if that is the determin-
5 ing factor in finding the man guilty. I have no
6 idea of what his knowledge of the incident is. I
7 don't know how the Government proceeds in the Grand
8 Jury. I'm assuming they have a fairly decent case
9 to have proceeded in the Grand Jury without asking
10 Mr. Ramos to testify in the Grand Jury.

11 He never was asked to testify in the Grand
12 Jury in this case.

13 THE COURT: Forget about the Grand Jury.
14 Mr. Termini, that's water over the dam. I mean, if
15 he is anxious to show his cooperation with the
16 Government, his time is now to say to the Government,
17 "I'm willing to assist you in the trial."

18 MR. TERMINI: What I'm stating, your Honor,
19 is that at no time did the Government ask --

20 THE COURT: You mean to say the Government
21 doesn't want his testimony at trial?

22 MR. TERMINI: No, I assume they would
23 probably like it.

24 THE COURT: Wait a second; Ms. Fields, is
25 that so, you don't want his testimony?

1 MS. FIELDS: No, your Honor. In fact, we have
2 spoken to Mr. Termini and had him speak with his
3 client concerning testifying at trial, and he indicated
4 he would not.

5 THE COURT: That argument you just presented
6 carries little or no weight with this Court. In fact,
7 no weight in light of what Ms. Fields just said.

8 MR. TERMINI: I was also given the indication
9 that he was not the primary --

10 THE COURT: She just said she wanted his
11 testimony.

12 MR. TERMINI: I really believe it was sort of
13 -- when I was explained this, that it was in lieu of
14 what anything the defendant might claim if he took
15 the stand, at best -- of course, again I do not have
16 actual information as to the case itself and --

17 THE COURT: Do you want to discuss this with
18 Ms. Fields?

19 MR. TERMINI: At this stage, my client tells
20 me he would not testify, which of course, because of
21 the possible consequences to his family.

22 THE COURT: Did he think of the possible con-
23 sequences to himself?

24 MR. TERMINI: Reluctantly he has, your Honor.
25 I just discussed this with Mr. Ramos and I advised

1 him that possibly a more heavier sentence could
2 possibly result. And, what I'm trying to say, your
3 Honor is that at no time was the Government ever
4 taking any real consideration for this man at any
5 time during this case.

6 They have had him in their office numerous
7 times, and never gave him an opportunity to go home
8 or even for me to seek permission for lower bail.

9 THE COURT: Who knows?

10 MR. TERMINI: Never.

11 THE COURT: As far as I know from what
12 Ms. Fields says, he hasn't been willing to cooperate.

13 MR. TERMINI: This man gave a full statement
14 at the time of his arrest and he was in Mr. DePetris'
15 office with me for numerous hours.

16 THE COURT: Maybe before we sentence you,
17 you ought to take him up to Ms. Fields' office and
18 see whether she thinks he is going to cooperate, and
19 whether she is willing to make such a report to this
20 Court, but don't come in here and tell me the man is
21 cooperating when Ms. Fields says he is not.

22 MR. TERMINI: I'm not trying to say there is
23 full cooperation in this case, I'm trying to give
24 some background because it is raised in the Probation
25 report, and I, obviously, foresee consequences based

1 on that.

2 THE COURT: Take him up to Ms. Fields' office
3 and have a heart to heart with him, with her about
4 this problem.

5 MR. TERMINI: I have spoken to my client
6 Judge and unless he gives me an indication he is
7 willing to testify at trial, and that's where the
8 case is at right now, I don't see where I can possibly
9 go to Ms. Fields. Obviously, if he had a change of
10 desire I think I would ask your Honor to please
11 adjourn this for a few weeks and see what would
12 happen. I believe the trial is coming up fairly
13 shortly, if I'm not mistaken.

14 MS. FIELDS: We don't have a new trial, but
15 it will be coming up shortly.

16 THE COURT: Was he arraigned before me?

17 MS. FIELDS: No, your Honor, the co-defendant
18 was before Judge Neaher.

19 THE COURT: And what happened?

20 MS. FIELDS: I don't know.

21 THE COURT: Which was filed first?

22 MS. FIELDS: This information was filed first.

23 THE COURT: Then Judge Neaher, then I guess, it
24 should be before me and not before him.

25 MS. FIELDS: I'll inquire as to that.

1 MR. TERMINI: Your Honor, it would be fruitless
2 for me to waste the Court's time.

3 THE COURT: You're not wasting my time, the
4 person whose interest you should be concerned with is
5 your client's.

6 MR. TERMINI: I have explained that to him
7 and I just asked him again if there is any change
8 in his position with respect to actual testimony;
9 there is none. I cannot make any further advances
10 with respect to that.

11 I just wanted to try to shed some light on
12 that, and I'm not trying to say that there was
13 full cooperation or even half cooperation. I'm just
14 trying to say statements were made earlier in the
15 case. There was no direct consideration ever given
16 to Mr. Ramos, nor was none offered to Mr. Ramos
17 with respect to charges or the bail situation.
18 That's all I wanted to tell your Honor with respect
19 to that.

20 Obviously, the fact that he refuses to testify
21 at the trial is in print and I cannot refute it nor
22 do I intend to. I just hope your Honor would consider
23 the entire Probation report involved in this case.

24 Again, I do not know the strength of the
25 Government's case with respect to the other persons.

1 Thank you.

2 THE COURT: Do you want to say anything,
3 Mr. Ramos?

4 MR. RAMOS: I can only hope you take into
5 consideration I'm the only man at my mother's house
6 and she really needs me. That's all I can say.

7 THE COURT: Ms. Fields, do you wish to say
8 something?

9 MS. FIELDS: The Government has no further
10 comment, your Honor.

11 THE COURT: Well, the Court has read the
12 Probation report. The Court has listened to the
13 statements made here today. The Court takes parti-
14 cular cognizance of the fact that we're dealing with
15 quantities of heroin and all of the facts as set forth
16 in the Probation report.

17 While it is true, as you pointed out that the
18 defendant waived indictment and pled guilty to an
19 information, which certainly is helpful to him, the
20 balance of your statements with respect to his cooper-
21 ation are not very helpful to the Court.

22 So, it is adjudged that the defendant is hereby
23 committed to the custody of the United States Attorney
24 General or his authorized representative for a term
25 of imprisonment for ten years, and that the defendant

1 shall become eligible for parole under 18 U.S.C.
2 Section 425B2 at such time as the Commission may
3 determine, and the defendant shall serve a special
4 parole term of ten years.

5 MS. FIELDS: Thank you, your Honor.

6 MR. TERMINI: Thank you, Judge.
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JUDGMENT AND COMMITMENT ORDER
(pp. 39A-40A)

39-A

United States District Court for

United States of America vs.

EASTERN DISTRICT OF NEW YORK

DEFENDANT

FILED

ISMAEL RAMOS

IN CLERK'S OFFICE

77 CR 141

U.S. DISTRICT COURT E.D.N.Y.

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 745 (6/74)

In the presence of the attorney for the government
the defendant appeared in person on this date

TIME A.M.

P.M.

MONTH

DAY

YEAR

5

19

1977

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Chris Tarcini, Legal Aid Society

(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☐ GUILTY.

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of violating T-21, U.S.C., Section 841(a)(1) in that on or about the twentieth day of January, 1977, the defendant did knowingly and intentionally possess with intent to distribute approximately seventeen (17) ounces of heroin hydrochloride, a Schedule I narcotic drug controlled substance.

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

SENTENCE OR PROBATION ORDER

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a term of ten (10) years and that the defendant shall become eligible for parole under Title 18, U.S. Code, Sec. 4205(b)(2) at such time as the Parole Commission may determine, and the defendant shall serve a special parole term of ten (10) years.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☐ U.S. District Judge

☐ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

Date

May 14, 1977

BY

(1) CLERK
(2) DEPUTY

40-A

GENERAL
CONDITIONS
OF
PROBATION

Where probation has been ordered, the defendant shall, during the period of probation, conduct himself as a law-abiding, industrious citizen and observe all conditions of probation prescribed by the court. **TO THE DEFENDANT** - You shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. When out of work notify your probation officer at once, and consult him prior to job changes;
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any change in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

5/24/77

Defendant in Federal custody at Nassau County Jail from 1/21/77 to 1/31/77 in lieu of \$75,000 Surety bail. Defendant delivered to MCC, N.Y. on 1/31/77.

Frank E. Devoy, USM, EDNY

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on 1/31/77 to Warden, Metropolitan Corr. Center, N.Y.C.

Defendant noted appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____, the institution designated by the Attorney General, with a certified copy of the within Judgment and Commitment.

United States Marshal.

By _____
Deputy Marshal.

SUBSTITUTION OF COUNSEL

41-A

-----X
UNITED STATES OF AMERICA,

Appellee,

-v.-

ISMAEL ANTONIO RAMOS,

Defendant-Appellant.
-----X

: (U.S. A.C., E.D. N.Y.)
: 77 CR 141
: (U.S. CIR. CT. OF APP)
: 77-1271
: STIPULATION OF
: SUBSTITUTION

We, CARMINE J. PERROTTA and ALLEN HARRIS, ESQUIRES,
located on the 25th Floor, 80 Broad Street, New York, New York
10004, herewith stipulate with CHRIS TERMINI, located in Suite
701, 26 Court Street, Brooklyn, New York, of the Legal Aid
Society, that we are substituting for the Legal Aid Society for
the purposes of appeal. The aforesaid Mr. Termini was trial
counsel. We are private counsel.

DATED: New York, New York
June 7th, 1977.

Carmine J. Perrotta
CARMINE J. PERROTTA

Allen Harris
ALLEN HARRIS

Chris Termini
CHRIS TERMINI

Ismael Antonio Ramos
ISMAEL ANTONIO RAMOS

(see exhibit A)

So ordered:

Living R. Kaufman

Chief Judge.

42-A

UNITED STATES DISTRICT COURT
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.

UNITED STATES

★ JUN 3 1977 ★

Docket Number

77 CR 141

Y.

ISMAEL ANTONIO RAMOS

TIME A.M.

P.M.

PLATT

(District Court Judge)

NOTICE OF APPEAL

Notice is hereby given that ISMAEL ANTONIO RAMOS

appeals to

the United States Court of Appeals for the Second Circuit from the ☒ Judgment ☐ order ☐ other
(specify) _____ entered in this action on MAY 19, 1977

(Date)

Date JUNE 3, 1977
To:

Address

Allen Harris and
Carmine J. Penotta, Esqs.
25th Floor
89 Broad Street
New York, N.Y. 10004

Phone Number

425-0055

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

QUESTIONNAIRE

TRANSCRIPT ORDER

DESCRIPTION OF PROCEEDINGS
FOR WHICH TRANSCRIPT IS
REQUIRED (INCLUDE DATE).

☒ I am ordering a transcript
☐ I am not ordering a transcript

Reason:

☐ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

Prepare transcript of

☐ Pre-trial proceedings
☒ Trial
☒ Sentence
☐ Post-trial proceedings

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature

Allen Harris for Allen Harris and Carmine J. Penotta

DATE JUNE 3, 1977

COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number
of pages.

Date _____

Signature _____

(Court Reporter)

ORIGINAL

6



A 202 Affidavit of Personal Service of Papers
COURT OF APPEALS
SECOND CIRCUIT

LUTZ APPELLATE PRINTERS, INC.

UNITED STATES OF AMERICA,
Appellee,

- against -

ISMAEL ANTONIO RAMOS,
Defendant-Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF

ss.:

I, James A. Steele being duly sworn, depose and say that deponent is not a party to the action,
is over 18 years of age and resides at 112 West 136th Street; New York, New York

That on the 11 ~~10th~~ day of August 19 77 at 225 Cadman Plaza
Brooklyn, New York

deponent served the annexed

upon

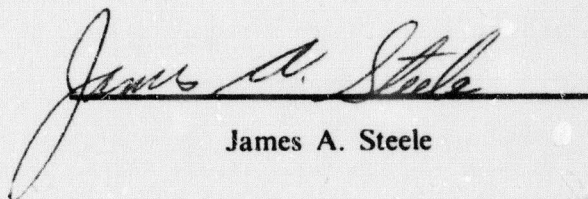
Appendix

Brief

Trager, ~~Robert~~ David
U.S. Atty: Eastern District

the in this action by delivering a true copy thereof to said individual
personally. Deponent knew the person so served to be the person mentioned and described in said
papers as the herein,

Sworn to before me, this 10th 11/
day of August, 19 77


James A. Steele